

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESAL PRICE LITIGATION))))	MDL NO. 1456 Civil Action No. 01-12257-PBS Subcategory Case No. 03-10643-PBS
THIS DOCUMENT RELATES TO: <i>The City of New York, et al.,</i> v. <i>Abbott Laboratories, et al.</i>)))))))	Judge Patti B. Saris

**JOINT MOTION TO EXTEND THE 90-DAY ORDER OF DISMISSAL AS TO
CERTAIN DEFENDANTS**

Plaintiffs The City of New York and New York Counties in MDL 1456 (collectively “NY Counties”) and defendants Alharma Inc. and Purepac Pharmaceutical Co.; King Pharmaceuticals Inc., King Research and Development, and Monarch Pharmaceuticals Inc.; Merck & Co. Inc.; Mylan Laboratories Inc., Mylan Pharmaceuticals Inc. and UDL Laboratories Inc.; Par Pharmaceutical Companies, Inc. and Par Pharmaceutical Inc.; Roche Laboratories Inc. and Hoffman-La Roche Inc.; and, Schering-Plough Corp., Schering Corporation and Warrick Pharmaceuticals Corporation, in the above-entitled action (collectively “the Settling Defendants”), (NY Counties and the Settling Defendants collectively “the Settling Parties”), hereby move the Court to extend the 90-day Order of Dismissal of July 7, 2011(Doc. # 7656, Sub-Doc. # 296), to allow the Settling Parties an additional time to file the necessary papers with the Court before the Order of Dismissal becomes final.¹

¹ NY Counties also move the Court for additional time to file the necessary papers with the Court as to defendants Eli Lilly & Company (“Eli Lilly”) and TAP Pharmaceutical Products Inc. (“TAP”). Defendants Eli Lilly and TAP do not oppose or object to the extension of the 90-day Order of Dismissal of July 7, 2011 (Doc. # 7656, Sub-Doc. # 296).

At a hearing on June 23, 2011, NY Counties reported to the Court that, other than defendant Sandoz, Inc., they had settled or reached agreements in principle to resolve all claims against all other defendants, including the Settling Defendants, Eli Lilly and TAP. However, NY Counties reported it would take some time to draft and negotiate the details of the settlement documents and to seek the Court's written consent. Thereafter the Court entered an Order of Dismissal on July 7, 2011 allowing the parties 90 days to finalize the settlement. Doc. # 7656, Sub-Doc. # 296. The 90-day period expires Wednesday, October 5, 2011.

In the time since July 7, plaintiffs and the defendants named herein have negotiated diligently and in good faith on the terms of the settlement agreements and related documents. All have agreed or are near agreement on the language of settlements and/or await final approval and signatures. Settlement agreements between NY Counties and Eli Lilly; Merck & Co. Inc.; Mylan Laboratories Inc., Mylan Pharmaceuticals Inc. and UDL Laboratories Inc.; and, Schering-Plough Corp., Schering Corporation and Warrick Pharmaceuticals Corporation await either final signature by a party, approval by a county legislature or final signature by the State of New York. Settlement agreements between NY Counties and: Alpharma Inc. and Purepac Pharmaceutical Co.; King Pharmaceuticals Inc., King Research and Development and Monarch Pharmaceuticals Inc.; Par Pharmaceutical Companies, Inc. and Par Pharmaceutical Inc.; Roche Laboratories Inc. and Hoffman-La Roche Inc.; and, TAP are near agreement on language and in the final papering stage. On September 20, 2011, the Court entered dismissals as to defendants Watson Pharmaceuticals Inc. and Watson Pharma Inc. As of the date of this motion, notice of voluntary dismissal between NY Counties and defendant Endo Pharmaceuticals Inc. (filed on June 2, 2011) remains *sub judice*.

The Settling Parties, however, need additional time to comply with the terms of the settlement agreements and file the necessary documents with the Court. The Settling Parties do

not anticipate problems finalizing the settlements and filing all necessary documents with the Court by December 5, 2011.

For the foregoing reasons, it is respectfully requested that the Court modify its 90-day Order of Dismissal of July 7, 2011 to allow the Settling Parties, Eli Lilly and TAP up to and including December 5, 2011 to file the requisite documents with the Court seeking dismissals with prejudice pursuant to their settlements.

Dated: October 3, 2011

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, James P Carroll Jr, hereby certify that I caused a true and correct copy of the foregoing **JOINT MOTION TO EXTEND THE 90-DAY ORDER OF DISMISSAL AS TO CERTAIN DEFENDANTS** to be served on all counsel of record via electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by submitting a copy to Lexis/Nexis File & Serve for posting and notification to all parties.

Dated: October 3, 2011

_____/s/ James P. Carroll Jr
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